

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 287

CASE NO. 78-17/77-26F

June 14, 1979

On April 12, 1979, the Zoning Commission adopted Order No. 252, which granted the application of Georgetown University for final approval of a planned unit development for property located in the block bounded by 5th, 6th, "D" and "E" Streets, N. W. That order became final on May 15, 1979, pursuant to Section 2.611 of the Rules of Practice and Procedure before the Zoning Commission.

Subsequent to the filing of the application, but prior to the conclusion of the hearings on this application, the Zoning Commission adopted Order No. 251, which created a new process for planned unit development's. Paragraph 7501.92 of the new regulations reads as follows:

A planned unit development which has already received preliminary approval or for which an application was filed before the effective date of this section may continue to be processed to completion in accordance with the regulations in effect at the time of filing, or may be processed in accordance with this revised section at the option of the applicant with the approval of the Zoning Commission.

At the further hearing held on March 5, 1979, by request marked as Exhibit No. 40 of the record, the applicant requested the Commission to process this application under the revised PUD process, which would eliminate review of the application by the Board of Zoning Adjustment.

The Commission considered this request at its meeting of April 12, 1979, when it adopted the final order. At that time the Commission ruled to deny the request. Finding of Fact No. 30 of Order No. 252 reads in pertinent part:

The Commission finds that the case was heard and considered under the Regulations in effect prior to the recent revisions and that the integrity of the process is challenged by switching the process at the final stage of con-

sideration of the application. The Commission further finds that the final design of the building has not been determined, pending review of building plans by both the Commission of Fine Arts and the Historic Preservation Review Board.

On June 6, 1979, the applicant filed a Motion to Waive Time for Further Consideration of Amendment to Order No. 252. Under Section 2.641 of the Rules of Practice and Procedure, a motion for reconsideration can be filed by a party within ten days. The applicant's request was filed eight days late.

As to the request for a waiver of the time within which to file a motion, the Commission finds the following:

1. Section 1.53 of the Rules of Practice and Procedure authorizes the Commission to extend or shorten any prescribed period of time for good cause shown.
2. Approval of the design of the project by the Joint Committee on Landmarks acting as the Historic Preservation Review Board occurred on June 1, 1979, and the motion could not have been filed prior to approval by the Joint Committee.
3. The time circumstances described above constitute good cause for extending the period for filing a motion.

As to the applicant's renewed request for processing under the revised PUD regulations, the Commission finds as follows:

1. The effect of the request is to allow the applicant to file directly for building permits without requiring review by the Board of Zoning Adjustment, as was previously the normal requirement.
2. The responsibility of the BZA is to implement the PUD as approved by the Commission, and the Board has a very limited jurisdiction over PUD's.
3. The Commission has expended considerable time and effort in reviewing and deliberating upon this case, and has received and evaluated considerable input in reaching a decision. The Commission believes that the final design which it has approved represents the best possible solution for development of the square, and that the design should be fixed by the Commission

so that it cannot be changed.

4. The plans submitted by the applicant, when read in conjunction with this order and Order No. 252, are sufficiently detailed to enable review by the Zoning Administrator, without benefit of review by the BZA. No useful purpose would be served by requiring review by the Board of the same plans which the Commission has already reviewed and approved.
5. By transmittal to the permit Branch, dated May 30, 1979, which is part of Exhibit No. 46 of the record, the Commission of Fine Arts approved the preliminary design. On June 1, 1979, the Joint Committee on Landmarks, pursuant to the Historic Landmark and Historic District Protection Act of 1978 granted preliminary approval to the project, and indicated no objection to the design, height or setback of the proposed building.

Based on the foregoing findings and reasons, the Commission therefore hereby orders the following:

1. The applicant's request to have the application processed under the new PUD regulations is granted. The applicant may therefore file an application for a building permit with the proper authorities of the District of Columbia. The Zoning Regulations Division of the Department of Housing and Community Development shall not approve such a permit application unless:
 - a. The plans conform in all respects to the plans approved by the Zoning Commission, as those plans may have been modified by any guidelines, conditions or standards which the Zoning Commission may have applied.
 - b. The applicant has recorded a covenant in the land records of the District of Columbia, between the owner or owners and the District of Columbia, satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division, which covenant will bind the owner and all successors in title to construct on and use the property only in accordance with the adopted orders or amendments thereof of the Zoning Commission.
2. The conditions contained in Order No. 252 are amended

as follows:

- a. Reference to the Board of Zoning Adjustment in condition No. 9 shall be deleted.
- b. Change the section number reference in Condition No. 10 from 7501.2 to 7501.812.
- c. Add the following new conditions:
 11. The Chief of the Zoning Regulations Divisions shall not have authority to approve any modifications to the development as specified in the conditions contained in Order No. 252 and this order.
 12. The final planned unit development approved by the Zoning Commission shall be valid for a period of two years, within which time, application must be filed for a building permit, as specified in Paragraph 7501.81 of the Regulations. Construction shall start within three years of the date of final approval. The Commission may extend those periods for good cause shown upon proper request of the applicant before the expiration of the approval. If no application for permit is filed, construction has not started within the period specified or no extension is granted, the approval shall expire, the zoning shall revert to the pre-existing regulations and maps and the approval shall not be reinstated unless a new application is filed.

Vote of the Commission taken at its public meeting held on June 14, 1979: 4-0 (Theodore F. Mariani, Walter B. Lewis, Ruby B. McZier and John G. Parsons to waive the Rules and approve the change of process, George M. White not present, not voting).


RUBY B. MCZIER
Chairperson


STEVEN E. SHER
Executive Director

In accordance with Section 2.6 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final on 13 JUL 1979.